

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**UNITED STATES OF AMERICA**

**V.**

**NO. 4:15-CR-263**

**ASHER ABID KHAN**

**DEFENDANT'S OPPOSED MOTION FOR CONTINUANCE**

The defendant, Asher Abid Khan moves this Court to continue the trial date set for September 27, 2016, and the conference dates and deadlines associated with it:

**I.**

Mr. Khan is charged with conspiring and attempting to provide material support to a designated foreign terrorist organization. He is additionally accused of conspiring to travel overseas to commit murder. The co-defendant, Mohamed Zuhbi, remains at large. Mr. Khan is on conditions of release and attends college.

**II.**

Counsel is actively preparing a number of cases for trial in the early fall including: *United States v. Santillan*, 4:14-CR-525 (Judge Hoyt), September 6, 2016 (mortgage fraud); *State v. Zhou*, No. 2046795, (County Criminal Court 5, Harris County), September 12, 2016 (prostitution case preferentially reset because counsel earlier was in trial in this Court in *United States v. Nguyen, et al*); and *United States v.*

*Aneke*, 4:15-CR-374 (Judge Hoyt), September 12, 2016 (Medicare fraud). None of these cases are likely to plead. Each case is about the same age as Mr. Khan's case. None of the defendants are in custody. Preparing each of these cases while at the same time preparing for Mr. Khan's case is burdensome. The federal cases are CJA.

### III.

Of more pressing concern is the nature of the case against Mr. Khan because it involves allegations of terrorism, i.e., that he sought to join ISIS/ISIL, induce another to join who was thereafter killed, and venture off with the intent to commit murder against the forces of the government of Syria. The prospect of selecting an impartial jury is daunting enough in a terrorism case but this close upon the general election in November, with some candidates engaging in virulent anti-Muslim rhetoric (Mr. Khan is Muslim) and unmitigated bellicosity about ISIS/ISIL, jury selection seems problematic. This is not an issue with the more mundane cases counsel has set for trial. For these reasons Mr. Khan moves the Court to reset trial in this case until after the November elections. Counsel could try this case the week of November 7, 2016, or just about any time in January.

### IV.

The government opposes this motion for a continuance.

### V.

The law permits a continuance under these grounds under Title 18, United States

Code, section 3161(h)(7)(A) and (B)(iv), as an "ends of justice" continuance.

Wherefore, Mr. Khan requests a continuance of trial.

Respectfully submitted,

THOMAS S. BERG

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CERTIFICATE OF SERVICE

I certify that a copy of this motion was served on opposing counsel via  
Electronic Case Filing this 22nd day of August, 2016.

/S/ Thomas S. Berg\_\_\_\_\_